

Snell & Wilmer

LAW OFFICES
LLP
600 Anton Boulevard, Suite 1400
Costa Mesa, California 92626-7689
(714) 427-7000

Christy D. Joseph (#136785)
cjoseph@swlaw.com
Nathan W. Hicks (#236269)
nhicks@swlaw.com
SNELL & WILMER L.L.P.
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Telephone: (714) 427-7000
Facsimile: (714) 427-7799

Attorneys for Defendants Apollo Group, Inc.

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**DECLARATION OF MATTHEW
MITCHEL IN SUPPORT OF
APOLLO GROUP, INC.'S
OPPOSITION TO MOTION FOR
ENTRY OF DEFAULT**

[FRCP 55(c)]

Date: April 7, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

\\HICKS\N\SWDMS\8621802

USDC-SOUTHERN DISTRICT CALIFORNIA
CASE NO. 07-CV-2373 WQH CAB

DECL. OF M. MITCHELL IN SUPPORT OF OPPOSITION TO MOTION FOR ENTRY OF DEFAULT

1 I, Matthew Mitchell, declare as follows:

2 1. I am over the age of 18. I am employed by Apollo Group, Inc.
3 ("Apollo") as VP, Human Resources Legal Services in the Human Resources
4 Department. In that capacity, I oversee various human resources functions for
5 Apollo and its employees. Additionally, I am familiar with the overall operations
6 of both Apollo and the University of Phoenix, Inc. ("UOP"). Unless otherwise
7 indicated, I state the following based on my own personal knowledge.

8 2. On January 31, 2008, Ms. Ellen Bowens was employed by UOP as an
9 Operations Manager at its San Diego, California Campus. Ms. Bowens is not, and
10 has never been, employed by Apollo. In carrying out her duties as an Operations
11 Manager for UOP's San Diego Campus, Ms. Bowens reported to the Director of
12 Student Services/Operations, Colleen Bjornson, who in turn reported to the San
13 Diego Campus Director, Kim Savich. Ms. Bowens duties are to supervise entry
14 level receptionists and administrative assistants, and she does not have, and has
15 never been given, management responsibilities to direct UOP. Additionally, Ms.
16 Bowens has never been an officer, managing agent, general manager or authorized
17 agent able to accept service of process on behalf of UOP. To that end, Ms. Bowens
18 has never been given management responsibilities to direct Apollo, nor has she ever
19 been an officer, managing agent, general manager or authorized agent able to
20 accept service of process on behalf of Apollo either.

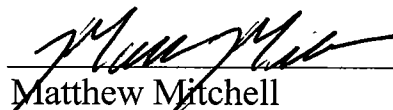
21 3. UOP (including UOP Online) is a wholly owned subsidiary of its
22 parent corporation, Apollo. Apollo is also the parent corporation for the Institute
23 for Professional Development, the College for Financial Planning and Western
24 International University. Apollo and UOP are independently incorporated Arizona
25 corporations with separate functions, operations and employees. Moreover, UOP is
26 authorized as a foreign corporation able to business in California; Apollo is not. As
27 a result, UOP and Apollo are completely different entities.

28 ///

1 4. Given that: (1) the January 31, 2008 attempted service of process on Ms.
 2 Bowens was not directed to any entity or individual; (2) that Ms. Bowens is a UOP
 3 employee—and not employed by Apollo; and (3) that Ms. Bowens is not an officer,
 4 managing agent, general manager or authorized agent able to accept service of
 5 process on behalf of either UOP or Apollo, there was no reason to believe that
 6 Apollo had been given sufficient service of process by plaintiff Chad McKinney in
 7 the matter before The United States District Court Southern District of California,
 8 CIV. Case No. 07-cv-2373 filed on December 19, 2007.

9
 10 I declare under penalty of perjury under the laws of the State of California
 11 that the foregoing is true and correct.

12
 13 Dated: March 16, 2008

14 
 15 Matthew Mitchell
 16 VP, HR Legal Services

17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

Snell & Wilmer
 LLP
 LAW OFFICES
 600 Anton Boulevard, Suite 1400
 Costa Mesa, California 92626-7689
 (714) 427-7000

PROOF OF SERVICE
USDC – Southern District, Case No. 07-CV-2373 WQH CAB

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626.

On March 7, 2008, I served, in the manner indicated below, the foregoing document described as **DECLARATION OF MATTHEW MITCHEL IN SUPPORT OF APOLLO GROUP, INC.'S OPPOSITION TO MOTION FOR ENTRY OF DEFAULT** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

Chad McKinney
 Pro Se
 6266 Madeline Street, Apt. #61
 San Diego, CA 92115

Plaintiff
 Tel: 619-634-3566

United States District Court
 Attention: Hon. Judge William Q. Hayes
 940 Front Street
 San Diego, CA 92101

☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 7, 2008, at Costa Mesa, California.


 Anh Dufour